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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,218	09/29/2003	Juan Simon Bacardit	803-02-234	2503

7590

12/13/2004

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EXAMINER

LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,218

Applicant(s)

BACARDIT ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “32” (Fig. 1a), “62” (Fig. 1b), “132” (Fig. 3a), 230 (Fig. 4), “303” (Fig. 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Applicant is advised that should claim 32 be found allowable, claim 33 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is directed to a pneumatic brake booster and recites, "at least one adjusting means ... the bushing" in lines 24-28. The "at least one adjusting means ... the bushing" renders the claim indefinite because the disclosure describes the bushing as being adjustable to a predetermined length only during manufacturing, but in terms of the final product as recited in the claims the bushing is not adjustable and should not be characterized as having "at least one adjusting means ... the bushing" as recited in lines 24-28 as part of the final product (i.e. the "pneumatic brake booster"). Claims 3 and 6 further recite characteristics of the manufacturing process (i.e. the plastic deformation of a section relative to another section to achieve length reduction) associated with the "at least one adjusting means ... the bushing" of claim 1.

The term "roughly" in claim 4, line 2 is a relative term, which renders the claim indefinite. The term "roughly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The section shape of the second section is rendered indefinite.

Claim 13 recites the limitation "the welding" in line 2. There is insufficient antecedent basis for this limitation in the claim. Further, the attachment by welding conflicts with the attachment by crimping recited in claim 10.

Claims 14-30 and 36 recite elements associated with a manufacturing apparatus of the bushing, which are not associated with the final product of the "pneumatic brake booster". It

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would be difficult to consider these claims under a product-by-process analysis because they are claiming only the manufacturing apparatus, which is only nominally associated with the brake booster in that it is able to apply a plastic deformation stress to the bushing. There is further confusion as to whether it is intended that claims be directed to a process or, as it appears to be, an entirely different apparatus.

Claims 31-35 recite limitations directed to the manufacturing steps associated with the bushing of the "pneumatic brake booster", considered as a product-by-process claim there is still confusion as to whether the claim is directed to the "pneumatic brake booster" or to its manufacturing process.

Claim 35 recites, "the ring ... crimping" in lines 2-3, this recitation conflicts with preceding claim 12, which recites, "the annular ... welding" in line 2.

Claim 36 recites the limitation "the ring" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, and 9, as far as they are definite, are rejected under 35 U.S.C. 102(a) as being anticipated by Bacardit (2002/0105223).

Bacardit discloses a pneumatic brake booster having an envelope (12) with a skirt (14) dividing low and variable pressure chambers, a pneumatic piston (22) having a rear tubular part

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with a three-way valve actuated by an actuating rod wherein the three-way valve includes a central feeler and a bushing (58) having a stop means (76), and a key (60). Wherein the stop means includes an annular ring formed integrally with the bushing.


Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (703) 305-0055. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (703) 308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML
December 7, 2004


Michael Leslie
Patent Examiner
AU 3745


EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

12/8/04